

## ORDINANCE NO. 2021-16

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE BOROUGH TO INSERT NEW CHAPTER 362: "FIREWORKS" TO PROHIBIT THE USE OF FIREWORKS, EXCEPT AS PERMITTED BY STATE LAW

**WHEREAS**, the Mayor and Council of the Borough of Red Bank find and declare that private fireworks displays, otherwise also prohibited by State law, present nuisances and dangers to persons and property within the Borough; and

**WHEREAS**, such private fireworks displays place a burden on the Red Bank Police Department and also on Red Bank Fire Department insofar as there are few suitable locations for the safe and permitted discharge of fireworks within the Borough; and

**WHEREAS**, the Mayor and Council seek to provide the Red Bank Police Department with a local means of enforcement to curb the increasing problem of private fireworks displays;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Red Bank that the following sections of Chapter 361: "Fire Prevention and Protection" and Chapter 505: "Property Maintenance" of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, are hereby amended to insert new Chapter 362: "Fireworks" as follows:

#### **CHAPTER 362: FIREWORKS.**

##### **§ 362-1 Definitions.**

As used herein:

##### **FIREWORKS**

shall include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

##### **DANGEROUS FIREWORKS**

shall mean and include all of the items described and set forth in N.J.S.A. 21:2-3 which further provides that it is unlawful to manufacture, sell, transport or use dangerous fireworks within the State.

##### **SPARKLING DEVICES AND NOVELTIES**

shall mean: (1) Wood sticks or wire sparklers of not more than 100 grams of pyrotechnic mixture per item; (2) Hand held or ground based sparkling devices which are non-explosive and non-aerial, which may produce a crackling or whistling effect, and contain 75 grams or less of pyrotechnic composition per tube or a total of 500 grams or less for multiple tubes; and (3) Snakes and glow worms, smoke devices, and trick noisemakers, which include party poppers, snappers, and drop pops, each consisting of 25/100 grains or less of explosive mixture.

##### **§ 362-2 Legislative Findings of Borough Council.**

- A. The New Jersey Legislature has determined that the sale, exposure for sale, use, distribution or possession of fireworks or pyrotechnics in the State of New Jersey, except under limited and specific conditions, is declared to be against the public health, safety and welfare of the people of the State of New Jersey.
- B. N.J.S.A. 21:2-6, provides that it shall be unlawful to manufacture, sell, transport or use dangerous fireworks within the State.
- C. Pursuant to N.J.S.A. 21:3-3, the governing body of any municipality may, in its discretion, and upon application in writing, and upon the posting of a suitable bond,

grant a permit for the purchase, possession and public display of fireworks by municipalities, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the governing body of such municipality to whom the application is made. By resolution the governing body may grant permission and set forth the requirements and conditions thereof, and the proposed display shall be of such a character, and so located, discharged, or fired, as in the opinion of the chiefs of the police and fire departments, after proper inspection, shall not be hazardous to property or endanger any person or persons.

**§ 362-3      Fireworks Sale, Possession or Use Prohibited; Exceptions.**

- A. It shall be unlawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any fireworks, as described herein, including blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers; torpedoes; skyrockets, Roman candles, bombs, or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares.
- B. Notwithstanding Section A hereinabove, it shall be lawful for a person to offer for sale, expose for sale, sell, store, possess, or use:
  - (1) A toy pistol, toy cane, toy gun, or other device in which paper or plastic caps containing 0.25 grain or less of explosive compound per cap are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper or plastic caps which contain less than 0.20 grains of explosive mixture per cap;
  - (2) Sparkling devices and novelties as defined in N.J.S.A. 21:2-2 if the person is 16 years of age or older. Sparkling devices and novelties, including their sale or use, shall not be subject to further regulation by a municipality pursuant to N.J.S.A. 40:48-1, except that the storage and sale of items listed in this Subsection shall be consistent with the standards set forth in NFPA 1124 National Fire Protection Association Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition;
  - (3) This section shall not apply to the Borough of Red Bank or any other governmental unit provided, however, that the Borough and any other governmental unit shall first comply with the provisions of New Jersey's Fireworks Regulation Law, N.J.S.A. 21:2-1 *et seq.*

**§ 362-4      Violations.**

- A. Any person who violates the provisions of this section and subsection shall, upon conviction, be subject to the penalties set forth in § 1-3 of this Code.
- B. Each and every day in which a violation of any provision of this section or any other ordinance of the Borough of Red Bank exists shall constitute a separate violation.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that this Ordinance shall take effect immediately upon its passage and adoption according to law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin	Second	X			
Councilwoman Triggiano		X			
Councilman Ballard	Motion	X			
Councilman Yngstrom		X			
Councilman Zipprich					X
Councilwoman Horgan		X			

Introduced: July 21, 2021  
Public Hearing/Adoption: August 18, 2021

I hereby certify the above to be a true copy.

Pamela Borghi

Pamela Borghi, Municipal Clerk